

Message Text

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ACTION DHA-02

INFO OCT-01 EUR-12 IO-11 ISO-00 SP-02 PM-04 L-03 EB-07

AID-05 SS-15 CIAE-00 INR-07 NSAE-00 /069 W

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E.O. 11652: N/A

TAGS: PFOR, PINT, PORG, UN, GW

SUBJECT: THE FRG POSITION ON HUMAN RIGHTS

REFS: (A) STATE 45319; (B) BONN 3447, FEB. 28, 75

SUMMARY: THE FRG'S HUMAN RIGHTS RECORD IS EXCELLENT.
FRG INTEREST IN THIS ISSUE IS ESPECIALLY STRONG GIVEN
THE LARGE NUMBER OF ETHNIC GERMANS LIVING IN EASTERN
EUROPE AND FRG SENSITIVITIES TO ITS NAZI ERA HERITAGE.
END SUMMARY.

1. IN THE FRG, FUNDAMENTAL HUMAN RIGHTS ARE
GUARANTEED BY THE CONSTITUTION (BASIC LAW).

2. THESE GUARANTEED RIGHTS INCLUDE: THE RIGHT TO FREE
DEVELOPMENT OF THE PERSONALITY, TO LIFE, TO INVIO-
LABILITY OF THE PERSON, AND TO LIBERTY OF THE INDIVIDUAL;
EQUALITY BEFORE THE LAW, AND SPECIFICALLY, EQUAL RIGHTS
FOR MEN AND WOMEN; PROHIBITION OF EITHER DISADVANTAGE
OR FAVOR ON THE BASIS OF SEX, PARENTAGE, RACE,
LANGUAGE, ORIGIN, ETC.; FREEDOM OF RELIGION AND
CONSCIENCE; THE RIGHT TO REFUSE WAR SERVICE INVOLVING
THE USE OF ARMS; FREEDOM OF SPEECH AND THE RIGHT
FREELY TO DISSEMINATE ONE'S OPINION BY SPEECH, WRITING,
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OR PICTURES; FREEDOM OF THE PRESS; PROHIBITION OF

CENSORSHIP; FREEDOM OF ART SCIENCE, RESEARCH, AND TEACHING. THE RIGHTS OF FREE EXPRESSION ARE LIMITED, IN ARTICLE 5(2), BY "THE PROVISIONS OF THE GENERAL LAWS, THE PROVISIONS OF LAW FOR THE PROTECTION OF YOUTH, AND BY THE RIGHT TO INVIOABILITY OF PERSONAL HONOR." ARTICLE 1(3) STATES THAT THE BASIC RIGHTS "SHALL BIND THE LEGISLATURE, THE EXECUTIVE, AND THE JUDICIARY AS DIRECTLY ENFORCEABLE LAW." THERE ARE, HOWEVER, SIMILAR PROVISIONS IN THE CONSTITUTIONS OF MANY STATES WHERE BASIC RIGHTS ARE NOT IN FACT PROTECTED. THE ULTIMATE GUARANTEE OF HUMAN RIGHTS IN THE FRG THEN, LIES NOT JUST IN CONSTITUTIONAL ASSURANCES, BUT IN THE WAY THESE ASSURANCES ARE GIVEN EFFECT BY REGULAR LEGISLATIVE, JUDICIAL, AND EXECUTIVE ACTION.

3. SOCIAL AND POLITICAL ATTITUDES IN THE FRG TOWARD BASIC RIGHTS ARE INFLUENCED TO A CONSIDERABLE EXTENT BY THE TRAUMA OF NAZISM AND THE SECOND WORLD WAR. SINCE THE FOUNDING OF THE GERMAN STATE IN 1949, THERE HAS BEEN A FELT NEED TO DEMONSTRATE THAT THE GERMAN PEOPLE ARE CAPABLE OF SUPPORTING A SYSTEM WHICH IS BASED ON LAW AND ENSURES FUNDAMENTAL HUMAN RIGHTS. FRG ATTITUDES ARE ALSO STRONGLY INFLUENCED BY THE CONTINUING DIVISION OF GERMANY, AND THE EXISTENCE OF LARGE NUMBERS OF ETHNIC GERMANS IN EASTERN EUROPE. THE FEDERAL GOVERNMENT IS FACED WITH CONSTANT PUBLIC PRESSURE TO IMPROVE THE LIVING CONDITIONS AND GAIN EXIT PERMITS FOR THESE ETHNIC GERMANS.

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4. IN THIS CONTEXT THE FRG DISPLAYED ITS CONCERN FOR
HUMAN RIGHTS IN VARIOUS WAYS DURING 1975.

-- DURING CSCE NEGOTIATIONS THE FRG MADE A
SPECIAL EFFORT TO GAIN HUMAN RIGHTS CONCESSIONS FROM
THE SOVIETS AND EASTERN EUROPEANS. THE GERMANS PUSHED
ESPECIALLY HARD IN THE AREA OF FAMILY REUNIFICATION.

-- A PROPOSED LAW TO HARMONIZE THE GENERAL RULES
APPLIED DURING BACKGROUND INVESTIGATIONS OF
APPLICANTS FOR GOVERNMENT EMPLOYMENT WAS RECENTLY VOTED
DOWN IN THE BUNDESRAT. THE OPPOSITION TO THE BILL
ARGUED THAT MEMBERSHIP IN RADICAL PARTIES SHOULD BE
CONSIDERED AN ADVERSE ELEMENT IN AN INVESTIGATION. THE
PROPOSERS WANTED SUCH MEMBERSHIP TO BE CONSIDERED AS
ONE ELEMENT IN THE TOTAL PICTURE. THAT THE BILL COULD
BE SO CLOSELY SCRUTINIZED AT ALL, IN A COUNTRY COPING
WITH VERY ACTIVE FOREIGN INTELLIGENCE OPERATIONS, IS AN
EXAMPLE OF THE FRG'S COMMITMENT TO HUMAN
RIGHTS.

-- THE BAADER-MEINHOF TRIAL IN STUTTGART IS
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RUNNING AN ESPECIALLY LONG COURSE DUE TO FRG ATTEMPTS
TO INSURE THAT THE DEFENDANTS RECEIVE A FAIR TRIAL.
THE FRG JUDICIARY HAS BEEN VERY SENSITIVE TO HUMAN
RIGHTS CRITICISM AND HAS MADE SPECIAL EFFORTS TO RE-
BUILD ITS IMAGE IN THE POSTWAR PERIOD. DEFENSE LAWYERS
IN THIS TRIAL ARE APPARENTLY ATTEMPTING TO ATTACK THE
JUDICIAL SYSTEM ITSELF, BUT THE FRG WILL CONTINUE
TO PLACE EMPHASIS ON A THOROUGHLY CONSTITUTIONAL
RESOLUTION OF THE CASE.

5. THERE IS NO PROBLEM IN THE FRG REGARDING TORTURE,
CRUEL, INHUMAN OR DEGRADING TREATMENT, OR PROLONGED
DETENTION WITHOUT CHARGES.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, HUMAN RIGHTS
Control Number: n/a
Copy: SINGLE
Draft Date: 04 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BONN03675
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760083-0704
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760396/aaaadgxxh.tel
Line Count: 166
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DHA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 45319, 76 BONN 3447
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 26 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 APR 2004 by BoyleJA>; APPROVED <08 JUL 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: THE FRG POSITION ON HUMAN RIGHTS
TAGS: PFOR, PINT, PORG, GE, UN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006